

FILED

SEP 17 2019

Charles Talbert

No. 810247

CECF

7901 State Road

Phila. Pa. 19136

By KATE BARKMAN, Clerk  
Dep. Clerk

September 10, 2019

United States District Court

Eastern District of Pennsylvania

Charles Talbert

Civil Action No. 18-1620-MAK

vs.

Plaintiffs' Affidavit In Support Of  
Blanche Carney, et al His Motion For New Trial

I, Charles Talbert, hereby declare that:

1. Blanche Carney, Terance Clark, and Gerald May, along with their counsel, have committed fraud by their intentional false representations to the jury while under oath.
2. Prior to this lawsuit, the Court directed the U.S. Marshal to serve a copy of the complaint and summons of all prior lawsuits against Defendants, upon them for service.
3. Plaintiff, on every occasion, returned OSM-285 forms back to the U.S. Marshals for service.
4. The U.S. Marshals served the Defendants as directed by the Court.
5. The Defendants, with their counsel, responded to Plaintiff's prior complaints against them.
6. This is actual knowledge of prior lawsuits filed against Carney, Clark, and May.
7. At trial, Carney, Clark, and May, testified as to not knowing that they have been sued by me.
8. The above facts demonstrates otherwise.
9. The "Transfer Request And Authorization" Form indicates

that I had lawsuits filed against them.

10. Terance Clark testified as to his lack of knowledge of me being at his prison (i.e. D.C.)

11. Ms. Christmas testified in disagreement, stating that Clark was informed of my presence through:  
(A) policy in regards to admittance into administration segregation;

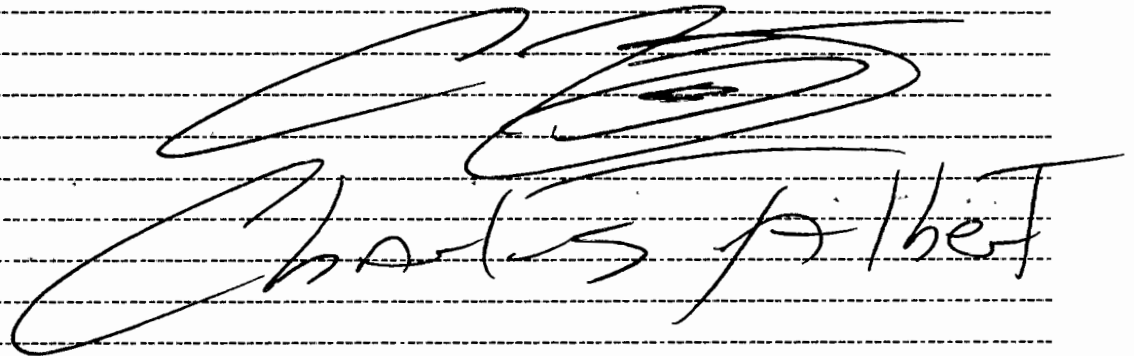
(B) grievances filed that was given a file number; and

(C) her requests that I be transferred to another county.

12. This not only demonstrated knowledge, but also intent on keeping me in solitary confinement indefinitely, without recourse.

I hereby verify under penalty of perjury that I have proven by actual and circumstantial evidence that fraud and perjury has been made upon the Court by the Defendants, through their testimony, and by their counsel aiding and abetting their conduct to intentionally confuse the court and, most importantly, the jury.

9-10-19



Charles Filbert

Charles Talbert  
No. 810247  
CECF  
7901 State Road  
Phila. Pa. 19136

September 8, 2019

United States District Court  
Eastern District of Pennsylvania

Charles Talbert, Civil Action  
vs. No. 18-1620-MAK

Blanche Carney, et al., Plaintiffs' Motion For A New Trial

Pursuant to Rule 60(b), Pro se Plaintiff respectfully moves  
this Honorable Court for a new trial, and in support thereof  
avers the following:

I. Grounds For A New Trial:

Plaintiff sets forth the following grounds for a new  
trial:

- (A) Rule 60(b)(3), specifically permits a court to relieve  
a party from a final judgment for fraud, misrepresen-  
tation, or misconduct; and
- (B) Rule 60(b)(6), permits courts to do so for any other  
reason that justifies relief.

II. Rule 60(b)(3):

Plaintiff hereby moves for an order granting him re-  
lief in the form of a new trial on the grounds of fraud,  
misrepresentation, and/or misconduct on the part of all  
Defendants, including their counsel. This action was based  
on retaliation due to prior lawsuits in which Plaintiff  
had filed against Defendants. All three (3) Defendants had  
testified that they had no knowledge of prior lawsuits,  
and their counsel upheld this fraud, misrepresentation,  
and perjury. This blatant misrepresentation of knowledge  
was a major factor in the jury's decision to find no  
liability as to retaliation. Defendants counsel had a  
legal duty to be honest and to prevent Defendants  
from committing perjury. This was fraud on the court.



Defendants also committed fraud on the Court by their misrepresenting facts in regards to knowledge of the Plaintiff being transferred November 9, 2017 from CECF to DC, and thereafter placed into solitary confinement. Prison policy demonstrates a clear showing of procedure in which the Warden must respond to the Deputy Wardens recommendation. Ms. Christmas testified that Clark had actual knowledge of Plaintiff being in his prison, and Ms. Christmas also testified that she had requested that Plaintiff be transferred from DC and into another county, which Clark had knowledge of but denied that request. Clark's representation of his lack of knowledge was fraud on the Court which also confused the jury.

"In *Bressman v. Bressman*, 874 F.3d 142 (3d Cir. 2017) the Third Circuit found that the attorney had deceived the court by his conduct in failing to disclose a settlement agreement which rose to the level of intentional fraud. The concept that the inherent power of Federal courts to vacate a fraudulently obtained verdict (judgment), has long been recognized by the United States Supreme Court."

### III. Rule 60(b)(6):

Plaintiff hereby moves for an order granting him relief in the form of a new trial on the grounds of:

- (A) the verdict was against the weight of the evidence which resulted in a miscarriage of justice Rule 59
- (B) the evidence of Plaintiff's prior criminal record, prior prison infractions, and any misconduct mentioned prior to November 1, 2017 (especially the assaults on officers allegations by Captain Harmer) was significantly irrelevant; and the prejudice upon Plaintiff outweighed any probative value.
- (C) Plaintiff was unable to depose Warden May or Commissioner Carney in regards to the Request For Transfer and Authorization Form due to the fact that Defendants violated the Courts orders which compelled this document before the close of discovery request and depositions. This document could have foreseeably been a tool

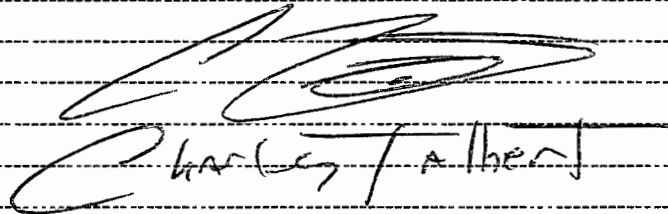
to depose other prison officials with knowledge of that form and reason for Plaintiff's transfer. He could have subpoenaed individuals from CMB in regards to protocol and knowledge of reason for transfer. He could have deposed CMB as to why Plaintiff was transferred to DC, and not to another county. This document was given in court Aug 29, 2019.

(D) Defendant's Motion to Dismiss and Motion For Summary Judgment (without an affidavit) was denied, and if Plaintiff was appointed new counsel, he could have deposed Defendants, and obtained witnesses in his behalf. Because of his imprisonment, and lack of counsel, discovery, witnesses, and depositions were curtailed.

In determining whether a new trial should be granted a court is permitted to consider the credibility of the witnesses and to weigh the evidence." *Penzini v. Primecare Medical Inc.*, 269 F. Supp. 3d 444 (M.D. Pa. 2017)

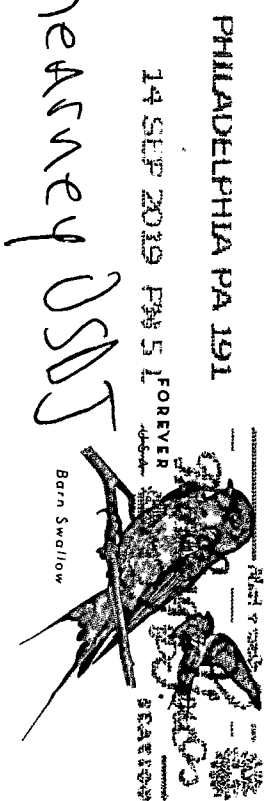
WHEREFORE, for the foregoing reasons, Plaintiff request that he be given a new trial, specifically, and preferably by Judge Oalya.

9-8-19

  
Charles A. Allen

*C. J. Albert*  
Philadelphia Department of Prisons  
Philadelphia, PA 19136  
PPN 810247

*YAH-X*  
*S.W.S'n*  
*DIS. Coathouse*  
*614 E 100c 601 Market Street*  
*Philadelphia, PA 19106*



PHILADELPHIA PA 191

14 SEP 2019 PM 5 L